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COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, MARCH 3, 2003

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

In the Matter of Developing
Consensus Recommendations on
Stranded Costs

CASE NO. PUE-2003-00062

ORDER ESTABLISHING PROCEEDING

By resolution adopted on January 27, 2003, the General Assembly's Legislative Transition Task Force (LTF)¹ requested the Virginia State Corporation Commission ("Commission") to convene a work group composed of representatives of the Commission Staff, the Office of the Attorney General, incumbent electric utilities, suppliers, and retail customers to develop consensus recommendations on stranded costs.² By July 1, 2003, the Commission will submit to the LTF the work group's consensus recommendations on:

- (a) Definitions of "stranded costs" and "just and reasonable net stranded costs."
- (b) A methodology to be applied in calculating each incumbent electric utility's just and reasonable net stranded costs, amounts recovered, or to be

¹ The LTF was established by § 56-595 of the Code of Virginia "to work collaboratively with the Commission in conjunction with the phase-in of retail competition," and it is comprised of ten legislators.

² A copy of the [LTF's Resolution](#) provided by the staff of the LTF to the Commission Staff is attached to this Order.

recovered, to offset such costs, and whether such recovery has resulted in or is likely to result in the overrecovery or underrecovery of just and reasonable net stranded costs

Requested Actions paragraph 2, LTF Resolution of Jan. 27, 2003 (hereinafter LTF Resolution), at 1.

The Commission is to report by November 1, 2003, the work group's consensus recommendations on:

- (a) The amount of each incumbent electric utility's just and reasonable net stranded costs.
- (b) The amount that each incumbent electric utility has received, and is expected to receive over the balance of the capped rate period, to offset just and reasonable net stranded costs from capped rates and from wires charges.

Requested Actions paragraph 3, LTF Resolution at 1.

The LTF also directed the Commission to:

Include in its reports to the Legislative Transition Task Force any recommendations for legislative or administrative action that the Commission, the work group, or both, determine to be appropriate in order to address any overrecovery or underrecovery of just and reasonable net stranded costs.

Requested Actions paragraph 9, LTF Resolution at 2.

The LTF resolution does not require the Commission to promulgate rules governing any aspect of stranded costs or to make any ruling or finding in either its judicial or legislative capacity. The Commission will not enter a final order in this proceeding. While the Commission will docket this matter, our Rules of Practice and Procedure will not apply. Rather, we will

establish procedures in this Order guided by the LTTF's resolution.

Our first task is to convene a work group. Requested Actions paragraph 1 of the LTTF Resolution, at 1, provides that the work group should consist of "such persons as the Commission deems appropriate to represent" various identified groups. While the resolution provides for Commission oversight of the representatives, we find that self-nomination is appropriate for formation of the work group. Based on our experience in related proceedings involving retail competition, the Commission is confident that a variety of individuals representing the groups listed in Requested Actions paragraph 1 will express an interest in the work group. We are also confident that these persons will work in good faith as requested by the LTTF in Requested Actions paragraph 7.

The Commission will not limit the size of the work group or require some proportional representation of the groups identified in Requested Actions paragraph 1. If, at any point, it appears that incumbent electric utilities, suppliers, or retail customers are not adequately represented, the Commission will use its best efforts to recruit additional persons to assure representation of all interests. We will establish procedures for providing notice of the convening of the work group.

The LTTF has identified one other issue, which the Commission will address. The Commission must determine whether the work group has access to necessary information, and we must also take measures to bar unauthorized disclosure of stranded cost information provided by incumbent utilities.³ Requested Actions paragraphs 5, 6, LTTF Resolution at 1. As noted, the LTTF has requested that all participants in the work group act in good faith. The Commission expects this good faith to extend to the representatives' providing and using confidential information. We will delegate to our Office of General Counsel responsibility for developing, in consultation with the work group, procedures for the request and dissemination of information, including information deemed confidential. These

³ The Commission's Regulations Governing the Functional Separation of Incumbent Electric Utilities Under the Virginia Electric Utility Restructuring Act provide that:

If the Legislative Transition Task Force adopts a resolution requesting the commission's assistance with monitoring the recovery of net stranded costs pursuant to §56-595 C of the Act, then the following information shall be provided to the commission: (I) fair market value of each generation and transmission asset functionally unbundled, transferred or sold to a third party or affiliate and (ii) a list of all long-term power contracts functionally unbundled, transferred or sold to a third party or affiliate. Information furnished shall include the length and anticipated expiration date of each contract, annual cash payments for power, and the market value of each power contract for each year of its remaining life.

20 VAC 5-202-40 B 6 c.

The LTTF Resolution requests the Commission to form a workgroup to develop consensus recommendations on the definition of stranded costs, a methodology for their calculation, calculation of these costs, and calculation of offsetting amounts received for rates and wire charges. At this time, the Commission will not require the filing of the information listed in our regulation. Rather, we will reassess the need for the requested information after the work group submits its first report.

procedures shall be considered at the work group's first meeting. If agreement on procedures cannot be reached, the Office of General Counsel will request guidance from the Commission. We note again that our Rules of Practice and Procedure do not apply in this proceeding, and representatives in the work group are not parties.

By July 1, 2003, the Commission must present to the LTTF a report on either the work group's consensus on definitions and methodology, Requested Actions paragraph 1, LTTF Resolution at 1, or, in the absence of consensus, a report on the representative's recommendations on the definitions and methodology and a Commission Staff analysis of these recommendations. Requested Actions paragraph 8, LTTF Resolution at 2. The Commission must report on these same issues to the LTTF's Subcommittee on Stranded Costs prior to submission of the report to the LTTF. Requested Actions paragraph 4, LTTF Resolution at 1.

To meet the LTTF's requirements, the Commission will establish a schedule for work group activities. We will set the first meeting of the work group for April 1, 2003. The work group will set additional meeting dates in April. A draft report shall be submitted to the Commission by May 30, 2003. The Commission will then submit a draft of the report to the Stranded Cost Subcommittee by June 16, 2003.

To focus consideration on the issues, the Commission requests that prospective representatives and other interested persons respond to any or all of the following questions.

1. Define "stranded costs." Include in the definition a detailed listing of each stranded cost component. Is this definition applicable to all electric utilities operating in Virginia? If not, to which utility or utilities does it apply and why?
2. Define "just and reasonable net stranded costs." Provide a detailed explanation of how and why it differs from "stranded costs." Is this definition applicable to all electric utilities operating in Virginia? If not, to which utility or utilities does it apply and why?
3. Provide a methodology for calculating "just and reasonable net stranded costs." Be specific in providing the necessary steps, beginning with each component comprising gross stranded costs and each component offsetting this amount to reach a net amount.
4. Describe how stranded costs are recovered. Provide a methodology for calculating such recovery. Describe the recovery period.
5. Do the calculation and recovery methodologies described in responses to questions 3 and 4 produce (or are they likely to produce) over-recovery or under-recovery of just and reasonable net stranded costs? How should such over- or under-recovery be dealt with?
6. Requested Actions paragraph 1 of the LTF Resolution requests that the work group develop consensus recommendations "consistent with the provisions of the Act." Explain how that phrase guides or possibly constrains the actions of the work group. Identify each section of the Virginia Electric Utility Restructuring Act, §§ 56-576 to -596 of the Code of Virginia, pertinent to such guidance or constraint. Additionally, explain each such section's significance in the context of definitions offered in response to questions 1 and 2 as well as in the methodologies proffered for calculating and recovering just and reasonable net stranded costs in response to questions 3 and 4.

7. Provide copies of any study or studies undertaken to define and/or calculate stranded costs for any Virginia electric utility.
8. Provide any additional comments on the issues raised by Requested Actions paragraphs 2 and 3 of the LTF Resolution.

To allow broad dissemination of information, we will request the filing of responses to these questions, if possible, in electronic form. The responses will be posted on the Commission's Division of Economics and Finance Web site. We will establish procedures for responding to these questions.

The Commission recognizes that responses to questions 5 and 7 may include material, which the authors deem confidential. Any portion of a paper response to questions 5 and 7 provided to the Staff as required by the procedures we establish and deemed confidential should be prominently marked as confidential. If possible, a complete electronic response to questions 5 and 7, including any material deemed confidential, should be provided to the designated Staff members. Distribution or access to portions of the paper or electronic responses to questions 5 and 7 deemed confidential will be restricted until the work group agrees on confidentiality procedures. The Commission encourages transmission of versions of the responses to questions 5 and 7, which omit material deemed confidential, to the electronic address in ordering paragraph (9).

With regard to the report on the amount of stranded costs, Requested Actions paragraph 3 of the LTF Resolution, the LTF

again requested that the Commission first submit the report to its Subcommittee on Stranded Costs. Accordingly, a draft report prepared pursuant to Requested Actions paragraph 3 shall be submitted to the Commission by September 30, 2003. The Commission will submit a draft of the report to the Stranded Cost Subcommittee by October 15, 2003. The work group may schedule necessary meetings, but approximately 30 days should be allowed for drafting the report.

The Commission Staff has developed lists of individuals, organizations, and companies interested in the implementation of retail competition. The Commission will direct the Staff to provide copies of this Order by electronic transmission or, when electronic transmission is not possible, by mail to individuals, organizations, and companies on these lists.

Accordingly, IT IS ORDERED THAT:

(1) This matter be docketed as Case No. PUE-2003-00062 and all associated papers be filed herein.

(2) Within three business days of the filing of this Order with the Clerk, the Commission Staff shall mail a copy of this Order to each member of the LTTTF, to its staff, and to the Attorney General.

(3) Within five business days of the filing of this Order with the Clerk, the Commission Staff shall transmit electronically or mail copies of this Order to interested persons and organizations as discussed in this Order.

(4) The Commission Staff shall promptly submit a copy of this Order for publication in the *Virginia Register*.

(5) On or before March 7, 2003, the Commission Staff shall file with the Clerk a certificate of the mailing required by paragraph (2).

(6) On or before March 14, 2003, the Commission Staff shall file with the Clerk a certificate of the transmission or mailing required by paragraph (3) and include a list of the names and addresses of persons to whom the Order was transmitted or mailed.

(7) On or before March 14, 2003, any person shall file with the Clerk of the Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118, a letter expressing the intention to represent a group in this matter. The letter shall include a complete mailing address, voice telephone number, facsimile telephone number (if available), and electronic mail address (if available). If several interested persons are members of the same organization or employees of the same entity, they shall designate in the letters one contact person. Interested persons are encouraged to transmit a copy of the letter filed with the Clerk, or the requested information, to econfin@scc.state.va.us.

(8) On or before March 21, 2003, one paper copy of any responses to the questions set out in this Order, and, if possible, an electronic copy of the complete response to

questions 5 and 7, if any portion of the response is deemed confidential, shall be mailed or delivered to the following Commission Staff:

Ronald A. Gibson, Director
Division of Public Utility Accounting
State Corporation Commission
P.O. Box 1197
Richmond, VA 23218-1197

Lawrence T. Oliver, Assistant Director
Division of Economics and Finance
State Corporation Commission
P.O. Box 1197
Richmond, VA 23218-1197

William F. Stephens, Director
Division of Energy Regulation
State Corporation Commission
P.O. Box 1197
Richmond, VA 23218-1197

Wayne N. Smith
Office of General Counsel
State Corporation Commission
P.O. Box 1197
Richmond, VA 23218-1197

If possible, complete copies of responses to the questions, including spreadsheets, attachments, and the like, should be transmitted electronically to econfin@scc.state.va.us. Any portion of the responses to questions 5 and 7 deemed confidential should be deleted from responses transmitted to this electronic address.

(9) Until the work group reaches agreement on access and dissemination, or until otherwise ordered by the Commission, Staff members receiving written and electronic copies of responses to questions 5 and 7 shall treat as confidential any

material clearly marked as confidential and shall limit access to other Staff members participating in the work group.

(10) The Commission Staff shall post promptly upon receipt all materials received by electronic transmission to econfin@scc.state.va.us on the Division of Economics and Finance Web site, <http://www.state.va.us/scc/division/eaf/comments.htm>. The Commission Staff shall not be responsible for editing any posted document to remove information deemed confidential.

(11) The Commission Staff shall convene the work group on April 1, 2003, in the Tyler Building, 1300 East Main Street, Richmond, Virginia, at 9:00 A.M. If necessary, the Staff may convene the meeting on the same date at the same time at a nearby-location. The Staff shall make a reasonable effort to inform interested persons of the new location.

(12) Individuals with disabilities who require an accommodation to participate in the work group meetings should contact the Commission at least seven (7) days before the scheduled meeting date at 1-800-552-7945 (voice) or 1-804-371-9206 (TDD).

(13) On or before May 30, 2003, the work group shall forward to the Commission a draft of the report called for in Requested Actions paragraph 2 of the LTF Resolution, or advise the Commission that it was unable to develop consensus recommendations so that the Commission may implement the

provisions of Requested Actions paragraph 8 of the LTF Resolution.

(14) On or before September 30, 2003, the work group shall forward to the Commission a draft of the report called for in Requested Actions paragraph 3 of the LTF Resolution adopted, or advise the Commission that it was unable to develop consensus recommendations so that the Commission may implement the provisions of Requested Actions paragraph 8 of the LTF Resolution.

LEGISLATIVE TRANSITION TASK FORCE

Background

Section 56-584 of the Virginia Electric Utility Restructuring Act (the "Act") provides:

Just and reasonable net stranded costs, to the extent that they exceed zero value in total for the incumbent electric utility, shall be recoverable by each incumbent electric utility provided each incumbent electric utility shall only recover its just and reasonable net stranded costs through either capped rates as provided in § 56-582 or wires charges as provided in § 56-583.

Subdivision C, clause (iii) of § 56-595 of the Act provides that the members of the Legislative Transition Task Force shall:

[A]fter the commencement of customer choice, monitor, with the assistance of the Commission, the Office of the Attorney General, incumbent electric utilities, suppliers, and retail customers, whether the recovery of stranded costs, as provided in § 56-584, has resulted or is likely to result in the overrecovery or underrecovery of just and reasonable net stranded costs . . .

As customer choice has commenced in the Commonwealth, it is appropriate for the Legislative Transition Task Force to initiate the process of monitoring whether the recovery of stranded costs has resulted or is likely to result in the overrecovery or underrecovery of just and reasonable net stranded costs.

Requested Actions

The Legislative Transition Task Force hereby requests the State Corporation Commission to:

1. Convene a work group, consisting of Commission staff and such persons as the Commission deems appropriate to represent the Office of the Attorney General, incumbent electric utilities, suppliers, and retail customers, for the purpose of developing consensus recommendations, consistent with the provisions of the Act, regarding the issues listed in paragraphs 2 and 3. The chairman of the Legislative Transition Task Force will designate two of its members to monitor the progress of the work group.

2. By July 1, 2003, present to the Legislative Transition Task Force the work group's consensus recommendations regarding:

- (a) Definitions of "stranded costs" and "just and reasonable net stranded costs."
- (b) A methodology to be applied in calculating each incumbent electric utility's just and reasonable net stranded costs, amounts recovered, or to be recovered, to offset such costs, and whether such recovery has resulted in or is likely to result in the overrecovery or underrecovery of just and reasonable net stranded costs; and

3. By November 1, 2003, present to the Legislative Transition Task Force the work group's consensus recommendations, developed using the methodology developed pursuant to paragraph 2 (b), regarding:

- (a) The amount of each incumbent electric utility's just and reasonable net stranded costs.
- (b) The amount that each incumbent electric utility has received, and is expected to receive over the balance of the capped rate period, to offset just and reasonable net stranded costs from capped rates and from wires charges.

4. Report to the Legislative Transition Task Force's Subcommittee on Stranded Costs, which will be reactivated to oversee the implementation of this resolution, regarding the matters described in paragraphs 2 and 3, which reporting shall be made prior to the submission of the reports to the Legislative Transition Task Force that are due by July 1, 2003, and November 1, 2003, respectively.

5. Determine whether the work group has access to information necessary for the development of recommendations on the issues set out in paragraphs 2 and 3, and, if the work group has been unable to obtain necessary information, give prompt written notice of the issue to the chairman of Legislative Transition Task Force, with a copy to its staff.

6. Take all reasonable and appropriate actions to ensure that State Corporation Commission staff and other work group participants do not make unauthorized disclosures of information regarding incumbent utilities' stranded costs and amounts received to offset stranded costs that is provided in confidence to the work group.

7. Request that the Commission staff and persons who are invited to participate in the work group act in good faith to develop consensus recommendations on the issues set out in paragraphs 2 and 3.

8. If the work group members are not able to develop consensus recommendations regarding the issues set out in paragraphs 2 and 3, include in its reports to the Legislative Task Force and the Subcommittee on Stranded Costs, as appropriate, (i) the recommendations of the Commission staff and other members of the work group regarding the issues and (ii) an analysis by Commission staff of such recommendations.

9. Include in its reports to the Legislative Transition Task Force any recommendations for legislative or administrative action that the Commission, the work group, or both, determine to be appropriate in order to address any overrecovery or underrecovery of just and reasonable net stranded costs.

Adopted by the Legislative Transition Task Force on _____, 2003.

A true copy: _____

Title: _____